

GENERAL ORDINANCE NO. 41-09

AN ORDINANCE
REPEALING AND RECREATING SECTION 27.620,
GREEN BAY MUNICIPAL CODE,
SEXUAL OFFENDERS RESIDENCY RESTRICTIONS

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 27.620, Green Bay Municipal Code, is hereby repealed and recreated as follows:

27.620 SEXUAL OFFENDER RESIDENCY RESTRICTIONS. (Cr. GO 14-07)

(1) ~~FINDINGS AND~~ INTENT.

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present a ~~n-extreme~~ threat to the public safety. ~~Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims that are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.~~ (b) It is the intent of this ordinance not to impose a criminal penalty but rather to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing a ~~temporary or permanent~~ residence.

(2) DEFINITIONS. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(a) Child means a person under the age of **17** ~~16 for purposes of this ordinance.~~

(b) Designated Offender means any person who is required to register under Wis. Stat. §301.45; ~~and for any sexual offense against a child or any person who is required to register under Wis. Stat. §301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §301.46 (2) and (2m).~~

1. Has been convicted of violating any offense under Ch. 948, Wis. Stats.; or

2. Who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §301.46 (2) and (2m).

(c) **Prohibited Residence Zone** means all real property which has a property line located within 2,000 feet from a property line of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Common Council as a place where children are known to congregate. The City Clerk shall maintain an official map showing the Prohibited Residence Zone.

(d) **Residence** means any premises where the person abides or lodges for 4 or more days in a 30-day period.

~~———— (e) Minor means a person under the age of 17.~~

~~———— (d) Permanent Residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.~~

~~———— (e) Temporary Residence means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.~~

~~(3) SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE, PROHIBITION; PENALTIES; EXCEPTIONS.~~

~~———— (a) Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City as a place where children are known to congregate.~~

~~———— (b) Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.~~

~~———— (c) Measurement of Distance.~~

~~———— 1. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City where children are known to congregate.~~

~~2. The City Clerk shall maintain an official map showing prohibited locations as defined by this ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.~~

~~(d) Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation. The City may also seek equitable relief.~~

~~(e) Exceptions. A designated offender residing within a prohibited area as described in Section (2)(a) does not commit a violation of this section if any of the following apply:~~

~~1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45 before the effective date of this ordinance.~~

~~2. The person is a minor and is not required to register under Wis. Stat. §301.45 or §301.46.~~

~~3. The school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City as a place where children are known to congregate within 2,000 feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. §301.45.~~

~~4. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children provided that such parent, grandparent, sibling, spouse or child established the residence at least two years before the designated offender established residence at the location.~~

(3) DESIGNATED OFFENDER RESIDENCE AND ACTIVITY RESTRICTIONS; EXEMPTION.

(a) Prohibited Location of Residence. A Designated Offender may not establish a Residence within the Prohibited Residence Zone. Each day a person maintains a Residence in violation of this paragraph constitutes a separate violation.

(b) Exemptions. A Designated Offender residing within a Prohibited Residence Zone does not commit a violation of this section if any of the following apply:

1. The Designated Offender reported and registered the Residence pursuant to Wis. Stat. §301.45 before May 17, 2007.

2. The Prohibited Residence Zone was created after the Designated Offender reported and registered the Residence pursuant to Wis. Stat. §301.45.

3. The Designated Offender's parents, spouse, or children established the Residence at least two years before the Designated Offender established Residence at the location.

4. The Residence is a facility which only temporarily houses individuals who have a medical, alcohol, or drug treatment need, and the Designated Offender is receiving such treatment.

~~**5. The Residence is a facility operated by an entity designated a non-profit under IRC § 501(c)(3) which only temporarily houses individuals for not more than 120 consecutive days by contract with the Department of Corrections as a transitional living program.**~~

5. The Sex Offender Residence Board grants an exemption for the Designated Offender.

(c) Prohibited Activity. A Designated Offender may not actively take part in a holiday event involving children, unless the offender is the parent or guardian of all children involved.

(4) PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO DESIGNATED OFFENDERS CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; PENALTIES.

~~—— (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section (3)(a).~~

~~—— (b) A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in Section (3)(d) as provided in this ordinance.~~

(a) No person may let or rent a premise within a Prohibited Residence Zone to a Designated Offender, unless the Designated Offender is exempt under sec. (3)(b). Each day a person lets or rents a Residence in violation of this paragraph constitutes a separate violation.

(5) PENALTIES. A person who violates sec. (3) or (4) shall forfeit not more than \$500.00 for each violation.

~~(5)~~ (6) APPEAL.

~~(a) Sex Offender Residence Board. The above requirements may be waived upon approval of the Sex Offender Residence Board through appeal by the affected party. Such appeal shall be made to the City Clerk's Office, who shall forward the request to the Sex Offender Residence Board, which shall receive reports from the Police Department on such appeal. The Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Board shall forward its decision in writing to the City of Green Bay Inspection Division and/or the Green Bay Police Department for their information and action. A written copy of the decision shall be provided to the affected party.~~

~~(b) Membership. The Board shall consist of five citizens, three of whom shall constitute a quorum. The Mayor shall annually, between the last Monday of April and the first Monday of May, appoint, in writing to be filed with the secretary of the Board, one member for a term of five years, subject to confirmation by the Council.~~

(a) Option to Appeal. A Designated Offender may seek an exemption from this ordinance by appealing to the Sex Offender Residence Board.

(b) Membership. The Board shall consist of five citizens. The Mayor shall annually, between the last Monday of April and the first Monday of May, appoint one member for a term of five years, subject to confirmation by the Council.

(c) Procedure. The Board shall approve of an official appeal form. A Designated Offender shall completely fill in the official form and submit it to the City Clerk, who shall forward it to the Board. The Board shall hold a hearing on each appeal, during which the Board may review any pertinent information and may accept oral and written statements from any person. The Board may base its decision on whether the Designated Offender has shown remorse, has rehabilitated, could re-offend, and any other factor related to the City's interest in promoting, protecting, and improving the health, safety, and welfare of the community. The Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address. A written copy of the decision shall be provided to the Designated Offender.

~~(6)~~ (7) SEVERABILITY. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application to any person or circumstance is held invalid, the reminder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 1st day of December, 2009.

APPROVED:

/s/ James J. Schmitt

Mayor

ATTEST:

/s/ Chad J. Weininger

Clerk

KJD:bc

First Reading: 11/17/09

Effective Date: 12/5/09